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ALI MOSLEH

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EXAMINER

SOMERS, MARC S

ART UNIT

PAPER NUMBER

2159

NOTIFICATION DATE

DELIVERY MODE

01/21/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@verizon.com

<b>Office Action Summary</b>	<b>Application No.</b> 09/385,299	<b>Applicant(s)</b> MOSLEH ET AL.	
	<b>Examiner</b> MARC SOMERS	<b>Art Unit</b> 2159	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 30-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 and 30-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

1. In view of the Appeal Brief filed on 11/9/2009, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/James Trujillo/

Supervisory Patent Examiner, Art Unit 2159.

2. In light of the new arguments presented in the appeal brief, prosecution has been reopened and new grounds of rejection are presented below. Claims 1-17 and 30-54 are pending where claims 1-17 and 30-54 were previously presented and claims 18-29 were cancelled.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 7, 9, 10, 12, 15, 16, 36, 38, 39, 41, 44, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al [US 5,867,821] in view of Cohn et al [5,740,231].

6. With regard to claim 7, Ballantyne teaches receiving a request from said portable access device to access a network server (see col 11, lines 24-27 and col 12, lines 35-37; the portable access devices attempts to access a network server);

and wherein said communication channel is selected from the group consisting of: local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PSTN) (see col 10, lines 10-21; col 12, lines 35-37; the portable

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access device attempts to establish a communication link between itself and the first network associated with the PCS using a wireless LAN connection using IR or wireless communication channel).

7. Ballantyne does not explicitly teach identifying a communication profile associated with said network server; transmitting said communication profile to said portable access device; and establishing a communication link between said portable access device and said network server using a communication channel that is selected based on said communication profile and a location of said portable access device with respect to said network server.

8. Cohn teaches identifying a communication profile associated with said network server; transmitting said communication profile to said portable access device (see col 7, lines 59-66; a database with communication protocols is kept so that the communication system can use that information to integrate and interconnect disparate sources and technologies of communication traffic and translate messages between the between the disparate sources; a database is searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages).

9. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Ballantyne by incorporating the database of communication profiles as taught by Cohn in order to allow the communication system to identify the different communication

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media/channels that are used to communicate data with the central server so that any medical personal can use any communication channel associated with a communication profile thus enabling the central server to be able to communicate successfully with various disparate networks that are trying to communicate information with the central server.

10. Ballantyne in view of Cohn teach establishing a communication link between said portable access device and said network server using a communication channel that is selected based on said communication profile and a location of said portable access device with respect to said network server (see Ballantyne, col 6, lines 47-57 and col 12, lines 35-47; see Cohn, col 7, lines 59-66 and col 10, lines 1-6; a communication link is established between the portable access device and the network server based on a wide range of communication channels depending on where the portable access device is located and the communication profile associated with the user of the device; for example, the portable access device attempts to use the IR communication link where the attempt will fail if the portable access device is not in direct line of sight with the PCS such as by being out of the patient's room or behind a curtain with respect to the location of the PCS, if the failure occurs the PDA will access the wireless communication channel in order for the medical personal to send important medical data to the central server).

11. With regard to claim 9, Ballantyne in view of Cohn teach accessing a central database; searching said central database for a communication profile associated with

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said network server; and retrieving said communication profile (see Cohn, col 7, lines 59-66; a database is searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages).

12. With regard to claim 10, Ballantyne in view of Cohn teach configuring said portable access device to transmit using one of a plurality of communication channels in accordance with said communication profile; verifying the availability of said communication channel; and initiating communication between said portable access device and said network server using one of said communication channels (see Ballantyne, col 12, lines 35-37; see Cohn, col 7, lines 59-66; the PDA is configured with a particular communication profile and transmits the modified health records when the communication channel/medium is available).

13. With regard to claim 12, this claim is substantially similar to claim 7 and is rejected for the same reasons as claim 7 as discussed above. The differences between claim 7 and 12 are that claim 12 recites transmitting from said portable access device to a first network server, a request to access a second network server; receiving said request at said first network server (see Ballantyne, col 11, lines 24-27 and col 12, lines 35-37; the portable access devices attempts to access a network server).

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14. With regard to claim 15, Ballantyne in view of Cohn teach accessing a central database; and retrieving a communication profile that corresponds to said second network server (see Cohn, col 7, lines 59-66; a database is searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages).

15. With regard to claim 16, Ballantyne in view of Cohn teach configuring said portable access device to transmit using one of a plurality of communication channels in accordance with said communication profile; verifying the availability of said communication channel; and initiating communication between said portable access device and said second network server along said communication channel (see Ballantyne, col 12, lines 35-37; see Cohn, col 7, lines 59-66; the PDA is configured with a particular communication profile and transmits the modified health records when the communication channel/medium is available).

16. With regard to claims 36, 38, 39, 41, 44, and 45, these claims are substantially similar to claims 7, 9, 10, 12, 15, 16 respectively and are rejected for the same reasons as discussed above. The only difference between claims 36, 38, 39, 41, 44, and 45 from claims 7, 9, 10, 12, 15, 16 is that claims 36, 38, 39, 41, 44, and 45 recite a computer-readable storage medium (see Ballantyne, col 6, lines 20-28; various computer readable storage medium can be used).



17. Claims 7, 9, 10, 12, 15, 16, 36, 38, 39, 41, 44, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin et al [US 6,269,402] in view of Cohn et al [5,740,231].

18. With regard to claim 7, Lin teaches receiving a request from said portable access device to access a network server (see Figure 5, step 504; the portable access devices attempts to access a network server);

and wherein said communication channel is selected from the group consisting of: local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PSTN) (see col 1, lines 67; the communication link between the first network and the portable device can be from a plurality of bearer networks including LAN).

19. Lin does not explicitly teach identifying a communication profile associated with said network server; transmitting said communication profile to said portable access device; and establishing a communication link between said portable access device and said network server using a communication channel that is selected based on said communication profile and a location of said portable access device with respect to said network server.

20. Cohn teaches identifying a communication profile associated with said network server; transmitting said communication profile to said portable access device (see col

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7, lines 59-66; a database with communication protocols is kept so that the communication system can use that information to integrate and interconnect disparate sources and technologies of communication traffic and translate messages between the between the disparate sources; a database is searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages).

21. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Lin by incorporating the database of communication profiles as taught by Cohn in order to allow the communication system to identify the different communication media/channels that are used to communicate data with the network server so that access or content that is able to be sent is restricted or allowed based on the user and the mobile device while also enabling the network server to be able to communicate successfully with various disparate networks that are trying to communicate information with the network server.

22. Lin in view of Cohn teach establishing a communication link between said portable access device and said network server using a communication channel that is selected based on said communication profile and a location of said portable access device with respect to said network server (see Lin, col 6, lines 13-22; see Cohn, col 7, lines 59-66 and col 10, lines 1-6; a communication link is established between the portable access device and the network server where the location of the portable

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access devices determines which bearer network or network communication channel to connect to in order to send out or receive information and data).

23. With regard to claim 9, Lin in view of Cohn teach accessing a central database; searching said central database for a communication profile associated with said network server; and retrieving said communication profile (see Cohn, col 7, lines 59-66; a database is searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages).

24. With regard to claim 10, Lin in view of Cohn teach configuring said portable access device to transmit using one of a plurality of communication channels in accordance with said communication profile; verifying the availability of said communication channel; and initiating communication between said portable access device and said network server using one of said communication channels (see Lin, col 6, lines 13-22; see Cohn, col 7, lines 59-66; the mobile device is configured with a particular communication profile and transmits the information when the communication channel/medium is available or when the connection has been established).

25. With regard to claim 12, this claim is substantially similar to claim 7 and is rejected for the same reasons as claim 7 as discussed above. The differences between claim 7 and 12 are that claim 12 recites transmitting from said portable access device to

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a first network server, a request to access a second network server; receiving said request at said first network server (see Lin, Figure 2; the mobile devices attempt to access a network server through various communication channels which can pass through a plurality of other servers).

26. With regard to claim 15, Lin in view of Cohn teach accessing a central database; and retrieving a communication profile that corresponds to said second network server (see Cohn, col 7, lines 59-66; a database is searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages).

27. With regard to claim 16, Lin in view of Cohn teach configuring said portable access device to transmit using one of a plurality of communication channels in accordance with said communication profile; verifying the availability of said communication channel; and initiating communication between said portable access device and said second network server along said communication channel (see Lin, col 6, lines 13-22; see Cohn, col 7, lines 59-66; the mobile device is configured with a particular communication profile and transmits the information when the communication channel/medium is available or when the connection has been established).

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28. With regard to claims 36, 38, 39, 41, 44, and 45, these claims are substantially similar to claims 7, 9, 10, 12, 15, 16 respectively and are rejected for the same reasons as discussed above. The only difference between claims 36, 38, 39, 41, 44, and 45 from claims 7, 9, 10, 12, 15, 16 is that claims 36, 38, 39, 41, 44, and 45 recite a computer-readable storage medium (see Lin, col 6, line 5; computer memory can be used).

29. Claims 1-3, 5, 8, 13, 30-32, 34, 37, 42, 47, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballantyne et al [US 5,867,821] in view of Cohn et al [5,740,231] and Ishizuka et al [US 5,805,666].

30. With regard to claim 1, Ballantyne teaches attempting, by the portable access device, to establish a communication link between the portable access device and the first network server using communication channel that is selected by the portable access device, wherein the communication channel is selected from the group consisting of: a local wireless LAN, a remote wireless LAN, a wireline LAN, and a Public Switched Telephone Network (PSTN) (see col 11, lines 24-27 and col 12, lines 35-37; the portable access device attempts to establish a communication link between itself and the first network associated with the PCS using a wireless LAN connection using IR or wireless communication channel).

31. Ballantyne teaches that memory is used on the portable access device (see col 12, lines 60-63) but does not explicitly teach identifying a communication profile

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associated with a first network server; using communication channel that is selected by the portable access device based on the communication profile and a location of the portable access device with respect to the first network server, and capturing data received by the portable access device in a memory located in the portable access device in accordance with a failed attempt to establish the communication link.

32. Cohn teaches identifying a communication profile associated with a first network server (see col 7, lines 59-66; a database with communication protocols is kept so that the communication system can use that information to integrate and interconnect disparate sources and technologies of communication traffic and translate messages between the between the disparate sources).

33. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Ballantyne by incorporating the database of communication profiles as taught by Cohn in order to allow the communication system to identify the different communication media/channels that are used to communicate data with the central server so that any medical personal can use any communication channel associated with a communication profile thus enabling the central server to be able to communicate successfully with various disparate networks that are trying to communicate information with the central server.

34. Ballantyne in view of Cohn teach using communication channel that is selected by the portable access device based on the communication profile and a location of the portable access device with respect to the first network server (see Ballantyne, col 6,

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lines 47-57 and col 12, lines 35-47; see Cohn, col 7, lines 59-66 and col 10, lines 1-6; a communication link is established between the portable access device and the network server based on a wide range of communication channels depending on where the portable access device is located and the communication profile associated with the user of the device; for example, the portable access device attempts to use the IR communication link where the attempt will fail if the portable access device is not in direct line of sight with the PCS such as by being out of the patient's room or behind a curtain with respect to the location of the PCS, if the failure occurs the PDA will access the wireless communication channel in order for the medical personal to send important medical data to the central server) and that memory is used on the portable access device (see Ballantyne, col 12, lines 60-63) but do not explicitly teach capturing data received by the portable access device in a memory located in the portable access device in accordance with a failed attempt to establish the communication link.

35. Ishizuka teaches capturing data received by the portable access device in a memory located in the portable access device in accordance with a failed attempt to establish the communication link (see col 15, lines 40-43; when a failure of communication/connection is identified, memory can be used to store data and information so that the data can be transferred later).

36. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Ballantyne in view of Cohn by storing the data/information to be transmitted in memory as taught by Ishizuka in order to improve system integrity by storing the data that could

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not be transmitted in memory thus enabling the portable device to be able to continue operation and be able to update the central server at a later time when a successful communication link has been established.

37. With regard to claim 2, Ballantyne in view of Cohn and Ishizuka teach searching an internal database for a communication profile associated with the first network server; and retrieving said communication profile from the internal database (see Cohn, col 7, lines 59-66; a database is searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages).

38. With regard to claim 3, this claim is substantially similar to claim 2 and is rejected for the same reasons as discussed above. The only difference between claims 2 and 3 is that claim 3 recites transmitting from the portable access device to a second network server, a request to access the first network server when the communication profile cannot be found in the internal database (see Ballantyne, col 11, lines 24-27 and col 12, lines 35-37; communication is transferred over a wireless network to the PCS when the portable access device is trying to contact the ML network).

39. With regard to claim 5, Ballantyne in view of Cohn and Ishizuka teach configuring said portable access device to transmit using one of a plurality of communication channels, in accordance with said communication profile; verifying the availability of



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said communication channel; and initiating communication between said portable access device and said network server along said communication channel (see Ballantyne, col 12, lines 35-37; see Cohn, col 7, lines 59-66; the PDA is configured with a particular communication profile and transmits the modified health records when the communication channel/medium is available).

40. With regard to claim 8, Ballantyne in view of Cohn teach all the limitations of claim 7 as discussed above.

41. Ballantyne in view of Cohn teach that memory is used on the portable access device (see Ballantyne, col 12, lines 60-63) but do not explicitly teach configuring said portable access device to capture data in memory in accordance with a failed attempt to establish said communication link.

42. Ishizuka teaches configuring said portable access device to capture data in memory in accordance with a failed attempt to establish said communication link (see col 15, lines 40-43; when a failure of communication/connection is identified, memory can be used to store data and information so that the data can be transferred later).

43. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Ballantyne in view of Cohn by storing the data/information to be transmitted in memory as taught by Ishizuka in order to improve system integrity by storing the data that could not be transmitted in memory thus enabling the portable device to be able to continue

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operation and be able to update the central server at a later time when a successful communication link has been established.

44. With regard to claim 13, Ballantyne in view of Cohn teach all the limitations of claim 12 as discussed above.

45. Ballantyne in view of Cohn teach that memory is used on the portable access device (see Ballantyne, col 12, lines 60-63) but do not explicitly teach configuring said portable access device to capture data in memory in accordance with a failed attempt to establish said communication link.

46. Ishizuka teaches configuring said portable access device to capture data in memory in accordance with a failed attempt to establish said communication link (see col 15, lines 40-43; when a failure of communication/connection is identified, memory can be used to store data and information so that the data can be transferred later).

47. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Ballantyne in view of Cohn by storing the data/information to be transmitted in memory as taught by Ishizuka in order to improve system integrity by storing the data that could not be transmitted in memory thus enabling the portable device to be able to continue operation and be able to update the central server at a later time when a successful communication link has been established.

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48. With regard to claim 47, Ballantyne in view of Cohn and Ishizuka teach searching an internal database of the portable access device for the communication profile associated with the first network server (see Cohn, col 7, lines 59-66; a database is searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages);

transmitting from the portable access device to a second network server, a request to access the first network server when the communication profile cannot be found in the internal database (see Ballantyne, col 11, lines 24-27 and col 12, lines 35-37; communication is transferred over a wireless network to the PCS when the portable access device is trying to contact the ML network);

and retrieving the communication profile server from the second network server (see Cohn, col 7, lines 59-66; a database is searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages).

49. With regard to claims 30-32, 34, 37, 42, and 49, these claims are substantially similar to claims 1-3, 5, 8, 13, and 47 respectively and are rejected for the same reasons as discussed above. The only difference between claims 30-32, 34, 37, 42, and 49 and claims 1-3, 5, 8, 13, and 47 is that claims 30-32, 34, 37, 42, and 49 recite a

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computer-readable storage medium (see Ballantyne, col 6, lines 20-28; various computer readable storage medium can be used).

50. Claims 1-3, 5, 8, 13, 30-32, 34, 37, 42, 47, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin et al [US 6,269,402] in view of Cohn et al [5,740,231] and Ishizuka et al [US 5,805,666].

51. With regard to claim 1, Lin teaches attempting, by the portable access device, to establish a communication link between the portable access device and the first network server using communication channel that is selected by the portable access device, wherein the communication channel is selected from the group consisting of: a local wireless LAN, a remote wireless LAN, a wireline LAN, and a Public Switched Telephone Network (PSTN) (see col 1, lines 67; the communication link between the first network and the portable device can be from a plurality of bearer networks including LAN).

52. Lin does not explicitly teach identifying a communication profile associated with a first network server; using communication channel that is selected by the portable access device based on the communication profile and a location of the portable access device with respect to the first network server, and capturing data received by the portable access device in a memory located in the portable access device in accordance with a failed attempt to establish the communication link.

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53. Cohn teaches identifying a communication profile associated with a first network server (see col 7, lines 59-66; a database with communication protocols is kept so that the communication system can use that information to integrate and interconnect disparate sources and technologies of communication traffic and translate messages between the between the disparate sources; a database is searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages).

54. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Lin by incorporating the database of communication profiles as taught by Cohn in order to allow the communication system to identify the different communication media/channels that are used to communicate data with the network server so that access or content that is able to be sent is restricted or allowed based on the user and the mobile device while also enabling the network server to be able to communicate successfully with various disparate networks that are trying to communicate information with the network server.

55. Lin in view of Cohn teach establishing a communication link between said portable access device and said network server using a communication channel that is selected based on said communication profile and a location of said portable access device with respect to said network server (see Lin, col 6, lines 13-22; see Cohn, col 7, lines 59-66 and col 10, lines 1-6; a communication link is established between the

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portable access device and the network server where the location of the portable access devices determines which bearer network or network communication channel to connect to in order to send out or receive information and data).

56. Lin in view of Cohn teach using communication channel that is selected by the portable access device based on the communication profile and a location of the portable access device with respect to the first network server (see Lin, col 6, lines 19-22 and Cohn, col 7, lines 59-66 and col 10, lines 1-6; a communication link is established between the portable access device and the network server based on a wide range of communication channels depending on where the portable access device is located and the communication profile associated with the user of the device) but do not explicitly teach capturing data received by the portable access device in a memory located in the portable access device in accordance with a failed attempt to establish the communication link.

57. Ishizuka teaches capturing data received by the portable access device in a memory located in the portable access device in accordance with a failed attempt to establish the communication link (see col 15, lines 40-43; when a failure of communication/connection is identified, memory can be used to store data and information so that the data can be transferred later).

58. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Lin in view of Cohn by storing the data/information to be transmitted in memory as taught by Ishizuka in order to improve system integrity by storing the data that could not be

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transmitted in memory thus enabling the portable device to be able to continue operation and be able to update the central server at a later time when a successful communication link has been established.

59. With regard to claim 2, Lin in view of Cohn and Ishizuka teach searching an internal database for a communication profile associated with the first network server; and retrieving said communication profile from the internal database (see Cohn, col 7, lines 59-66; a database is searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages).

60. With regard to claim 3, this claim is substantially similar to claim 2 and is rejected for the same reasons as discussed above. The only difference between claims 2 and 3 is that claim 3 recites transmitting from the portable access device to a second network server, a request to access the first network server when the communication profile cannot be found in the internal database (see Lin, col 5, lines 20-21 and col 6, lines 19-22; communication is transferred from a second server to a first server).

61. With regard to claim 5, Lin in view of Cohn and Ishizuka teach configuring said portable access device to transmit using one of a plurality of communication channels, in accordance with said communication profile; verifying the availability of said communication channel; and initiating communication between said portable access

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device and said network server along said communication channel (see Lin, col 5, lines 35-59; see Cohn, col 7, lines 59-66; the portable device is configured with a particular communication profile and transmits the modified health records when the communication channel/medium is available).

62. With regard to claim 8, Lin in view of Cohn teach all the limitations of claim 7 as discussed above.

63. Lin in view of Cohn do not explicitly teach configuring said portable access device to capture data in memory in accordance with a failed attempt to establish said communication link.

64. Ishizuka teaches configuring said portable access device to capture data in memory in accordance with a failed attempt to establish said communication link (see col 15, lines 40-43; when a failure of communication/connection is identified, memory can be used to store data and information so that the data can be transferred later).

65. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Lin in view of Cohn by storing the data/information to be transmitted in memory as taught by Ishizuka in order to improve system integrity by storing the data that could not be transmitted in memory thus enabling the portable device to be able to continue operation and be able to update the central server at a later time when a successful communication link has been established.



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66. With regard to claim 13, Lin in view of Cohn teach all the limitations of claim 12 as discussed above.

67. Lin in view of Cohn do not explicitly teach configuring said portable access device to capture data in memory in accordance with a failed attempt to establish said communication link.

68. Ishizuka teaches configuring said portable access device to capture data in memory in accordance with a failed attempt to establish said communication link (see col 15, lines 40-43; when a failure of communication/connection is identified, memory can be used to store data and information so that the data can be transferred later).

69. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Lin in view of Cohn by storing the data/information to be transmitted in memory as taught by Ishizuka in order to improve system integrity by storing the data that could not be transmitted in memory thus enabling the portable device to be able to continue operation and be able to update the central server at a later time when a successful communication link has been established.

70. With regard to claim 47, Lin in view of Cohn and Ishizuka teach searching an internal database of the portable access device for the communication profile associated with the first network server (see Cohn, col 7, lines 59-66; a database is searched for a communication profile and retrieved to indicate to the communication

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system how particular users are going to use the various media and their respective channels to send and receive communication messages);

transmitting from the portable access device to a second network server, a request to access the first network server when the communication profile cannot be found in the internal database (see Lin, col 5, lines 20-21 and col 6, lines 19-22; communication is transferred from a second server to a first server);

and retrieving the communication profile server from the second network server (see Cohn, col 7, lines 59-66; a database is searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages).

71. With regard to claims 30-32, 34, 37, 42, and 49, these claims are substantially similar to claims 1-3, 5, 8, 13, and 47 respectively and are rejected for the same reasons as discussed above. The only difference between claims 30-32, 34, 37, 42, and 49 and claims 1-3, 5, 8, 13, and 47 is that claims 30-32, 34, 37, 42, and 49 recite a computer-readable storage medium (see Lin, col 6, line 5; computer memory can be used).

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72. Claims 11, 14, 17, 40, 43, 46, and 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin et al [US 6,269,402] in view of Cohn et al [5,740,231] in further view of Ballantyne et al [5,867,821].

73. With regard to claim 11, Lin in view of Cohn teach all the claim limitations of claim 7 as discussed above.

74. Lin in view of Cohn teach connecting to a second network when a communication link cannot be established with a first network (see Lin, col 6, lines 14-22; the communication link is established over a different bearer network when the connection is interrupted, i.e. the device cannot connect to the first network).

75. Lin in view of Cohn discuss multiple networks but do not explicitly discuss the order of networks to attempt to connect to or that the LAN network is local wireless or remote wireless (see Lin, col 1, line 67), in particular, Lin in view of Cohn do not explicitly teach transmitting a first request from the portable access device to a local wireless LAN transceiver; transmitting a second request from the portable access device to a remote wireless transceiver when a communication link cannot be established with the local wireless LAN transceiver; connecting the portable access device to a public switched telephone network (PSTN) when a communication link cannot be established with the remote wireless transceiver.

76. Ballantyne teaches a mobile device that can connect to a network using local wireless and remote wireless technology (see col 12, line 37; the PDA uses the IR communication link for local wireless communication and uses the wireless communication link for remote wireless communication).

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77. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Lin in view of Cohn by using well-known and well-established wireless communication schemes as taught by Ballantyne in order to have communication system that allows the mobile device to be able to communicate with the network through a wireless communication network in areas where it is difficult to install suitable cabling for other network schemes.

78. Lin in view of Cohn in further view of Ballantyne teach transmitting a first request from the portable access device to a local wireless LAN transceiver (see Ballantyne, col 12, line 37; the IR communication link is utilized; see Lin, col 4, lines 9-13; a communication link is established with the bearer network);

transmitting a second request from the portable access device to a remote wireless transceiver when a communication link cannot be established with the local wireless LAN transceiver (see Ballantyne, col 12, line 37; the wireless or remote wireless communication link is utilized; see Lin, col 6, lines 14-22; the communication link/session with the first network was severed so a new communication link is established with a different bearer network);

connecting the portable access device to a public switched telephone network (PSTN) when a communication link cannot be established with the remote wireless transceiver (see Lin, col 3, line 66 and col 6, lines 14-22; the communication link/session with a network was severed so a new communication link is established with a different bearer network such as a telephone network).

79. With regard to claims 14, 17, 40, 43, and 46, these claims are substantially similar to claim 11 and are rejected for the same reasons as discussed above.

80. With regard to claim 51, this claim is substantially similar to claim 11 and is rejected for the same reasons as discussed above.

81. With regard to claim 52, Lin in view of Cohn in further view of Ballantyne teach determining, by the access device, whether or not the communication profile is stored locally by the access device; and establishing communication with a second server to retrieve the communication profile, if the communication profile is not stored locally (see Cohn, col 7, lines 59-66; a database is searched for a communication profile and retrieved to indicate to the communication system how particular users are going to use the various media and their respective channels to send and receive communication messages).

82. With regard to claim 53, this claim is substantially similar to claims 14 and 17 and is rejected for the same reasons as discussed above.

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83. Claims 4, 6, 33, 35, 48, 50, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin et al [US 6,269,402] in view of Cohn et al [5,740,231] and Ishizuka et al [US 5,805,666] in further view of Ballantyne et al [5,867,821].

84. With regard to claim 4, Lin in view of Cohn and Ishizuka teach all the claim limitations of claim 3 as discussed above.

85. Lin in view of Cohn and Ishizuka teach connecting to a second network when a communication link cannot be established with a first network (see Lin, col 6, lines 14-22; the communication link is established over a different bearer network when the connection is interrupted, i.e. the device cannot connect to the first network).

86. Lin in view of Cohn and Ishizuka discuss multiple networks but do not explicitly discuss the order of networks to attempt to connect to or that the LAN network is local wireless or remote wireless (see Lin, col 1, line 67), in particular, Lin in view of Cohn do not explicitly teach transmitting a first request from the portable access device to a local wireless LAN transceiver; transmitting a second request from the portable access device to a remote wireless transceiver when a communication link cannot be established with the local wireless LAN transceiver; connecting the portable access device to a public switched telephone network (PSTN) when a communication link cannot be established with the remote wireless transceiver.

87. Ballantyne teaches a mobile device that can connect to a network using local wireless and remote wireless technology (see col 12, line 37; the PDA uses the IR communication link for local wireless communication and uses the wireless communication link for remote wireless communication).

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88. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Lin in view of Cohn and Ishizuka by using well-known and well-established wireless communication schemes as taught by Ballantyne in order to have communication system that allows the mobile device to be able to communicate with the network through a wireless communication network in areas where it is difficult to install suitable cabling for other network schemes.

89. Lin in view of Cohn and Ishizuka in further view of Ballantyne teach transmitting a first request from the portable access device to a local wireless LAN transceiver (see Ballantyne, col 12, line 37; the IR communication link is utilized; see Lin, col 4, lines 9-13; a communication link is established with the bearer network);

transmitting a second request from the portable access device to a remote wireless transceiver when a communication link cannot be established with the local wireless LAN transceiver (see Ballantyne, col 12, line 37; the wireless or remote wireless communication link is utilized; see Lin, col 6, lines 14-22; the communication link/session with the first network was severed so a new communication link is established with a different bearer network);

connecting the portable access device to a public switched telephone network (PSTN) when a communication link cannot be established with the remote wireless transceiver (see Lin, col 3, line 66 and col 6, lines 14-22; the communication link/session with a network was severed so a new communication link is established with a different bearer network such as a telephone network).

90. With regard to claims 6, 33, 35, 48, and 50, these claims are substantially similar to claim 4 and are rejected for the same reasons as discussed above.

91. With regard to claim 54, Lin in view of Cohn and Ballantyne teach all the limitations of claim 51 as discussed above.

92. Lin in view of Cohn and Ballantyne teach that memory is used on the portable access device (see Ballantyne, col 12, lines 60-63) but do not explicitly teach configuring the access device to operate in a local capture mode such that data received by the access device is stored in a memory located in the access device, if the third attempt fails.

93. Ishizuka teaches configuring the access device to operate in a local capture mode such that data received by the access device is stored in a memory located in the access device, if the third attempt fails (see col 15, lines 40-43; when a failure of communication/connection is identified, memory can be used to store data and information so that the data can be transferred later).

94. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the communication system as taught by Lin in view of Cohn and Ballantyne by storing the data/information to be transmitted in memory as taught by Ishizuka in order to improve system integrity by storing the data that could not be transmitted in memory thus enabling the portable device to be able to



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continue operation and be able to update the central server at a later time when a successful communication link has been established.

### ***Response to Arguments***

95. Applicant's arguments (see the first paragraph on page 17 through the last paragraph on page 19) have been fully considered but they are not persuasive. The applicant argues that the combination of Ballantyne in view of Cohn do not teach all the claim limitations of claim 7 because the combination of references do not teach the selection of a communication channel based on "a communication profile and a location". The Examiner respectfully disagrees. The applicant argues that Ballantyne has no need for Ballantyne to select from a group a communication channel (or communication medium) based on a communication profile and location of the portable device because, according to the applicant, Ballantyne specifically discloses using "wireless/IR communications link" to transfer data. As acknowledged by the applicant, Ballantyne uses either a wireless link or an IR communication link, both of which are communication channels (as defined by the applicant's specification). With regard to the location argument, the portable device of Ballantyne connects to the network via an access point in a patient's room. When the portable device is in the room then the IR communication or wireless communication link is able to connect to the server, via the access point, to upload or download patient information. However, if the portable device is not in direct line of sight to the access point (i.e. in a different room or in a hallway) then only the wireless communication link will be able to connect. As shown,

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the portable device will select and use any of the communication channels at the portable device's disposal in order to connect to the network. Since the portable device has two communication channels to use, the portable device has to select at least one of them when establishing a communication link. With regard to the communication profile; as discussed in above Ballantyne in view of Cohn teach the usage of the communication profile for the portable device so that the communication system can identify the different communication media/channels that are used to communicate data with the central server so that any medical personal can use any communication channel associated with a communication profile thus enabling the central server to be able to communicate successfully with various disparate networks that are trying to communicate information with the central server.

96. Applicant's arguments (see the first full paragraph on page 20 the last paragraph on page 20) have been fully considered but they are not persuasive. The applicant argues that the communication channel of the present invention is different from the communication channel in Ballantyne therefore the cited prior art references do not teach the selection of a communication channel from a "group consisting of: local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PTSN)". The Examiner respectfully disagrees.

97. The applicant acknowledges that the Examiner stated that the rejection in the previous Office Action did not rely on the definition of "communication channel" as defined by Ballantyne. The applicant also acknowledges that the Examiner stated that

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the "communication channel" of Ballantyne is different from the "communication channel" as described in the applicant's specification. The applicant then concludes that Ballantyne does not teach the claimed "communication channel" therefore Ballantyne's "communication channel" is not selected from the "group consisting of: local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PTSN)". The applicant appears to have mischaracterized the cited prior art references. The Examiner acknowledges that the applicant acknowledges that Ballantyne has a phrase called "communication channel" that is different from the claimed "communication channel" and also that the applicant acknowledges that Ballantyne's "communication channel" was not used in the formulation of the rejection of the claims. It is unclear why the applicant believes that arguing a feature of Ballantyne that was not used in the rejection of the claim would obviate the features that were used in the rejection of the claim. The Examiner further notes that applicant fails to provide any evidence to show to support the applicant's arguments. See MPEP 2145(I).

98. As discussed in the 35 USC 103(a) rejections of the claims and acknowledged by the applicant, Ballantyne uses two communication mediums including "wireless and IR communications". The "communication channels" of the claimed invention are various communication mediums including "local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PTSN)". The applicant has acknowledged that Ballantyne incorporates communication mediums that are substantially similar to the claimed communication mediums (or "communication

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channels". Although the exact terminology is not used, the determination of patentability is not based on an *ipsissimis verbis* test. See MPEP 2131.

99. Applicant's arguments (see the last paragraph on page 21 through the third paragraph on page 22) have been fully considered but they are not persuasive. The applicant argues that the other independent claims 12, 36, and 41 and their respective dependent claims are allowable for the same reasons as independent claim 7 as discussed above. The Examiner respectfully disagrees. As discussed above the rejection for claim 7 still stands therefore the rejection for the other independent claims still stand and also the rejection for their respective dependent claims.

100. Applicant's arguments (see the second to last paragraph on page 22 through second to last paragraph on page 24) have been fully considered but they are not persuasive. The applicant argues that claims 1-3, 5, 8, 13, 30-32, 34, 37, 42, 47, and 49 are patentable for similar reasons as discussed above with regard to independent claim 7. As discussed above the rejection for independent claim 7 still stands therefore the rejection for claims 1-3, 5, 8, 13, 30-32, 34, 37, 42, 47, and 49 still stand too.

101. Applicant's arguments (see the last paragraph on page 24 through the last paragraph on page 28) with respect to the rejection(s) of claim(s) 11, 14, 17, 40, 43, 46, and 51-53 under Ballantyne, Cohn, and Spaur have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further

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consideration, a new ground(s) of rejection is made in view of Lin. The applicant supplied new arguments discussing the particular sequence used when trying to connect to a network and then when an attempt fails, attempting again to connect to the network through a different communication channel/link/medium. Although Ballantyne discusses the usage of various communication channels/links/mediums to connect to such as IR and wireless communication channels/links/mediums; Ballantyne does not explicitly disclose using a different communication channel/link/medium when the first attempt fails. Ballantyne merely discloses connecting to the network but never explicitly discusses which communication channel/link/medium to try first and then what happens when that attempt fails. Therefore, as discussed above, a new ground of rejection has been made with regard to these claims in order to explicitly teach that a portable device connects to a network through a first communication channel/link/medium and then when the communication channel/link/medium connection fails the portable device will connect to the network using a different communication channel/link/medium.

102. Applicant's arguments (see the first paragraph on page 29 through the last paragraph on page 30) with respect to claims 4, 6, 33, 35, 48, 50 have been considered but are moot in view of the new ground(s) of rejection. The applicant's arguments for these claims are substantially similar to the arguments presented above with regard to claims 11, 14, 17, 40, 43, 46, and 51-53 under Ballantyne, Cohn, and Spaur. As discussed above, a new ground of rejection has been made to claims 4, 6, 33, 35, 48, 50.

***Conclusion***

103. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Allain et al [US 6,449,259].

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARC SOMERS whose telephone number is (571)270-3567. The examiner can normally be reached on 9 am - 5 pm EST Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trujillo can be reached on (571) 272-3677. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. S./  
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